

Senate Bill 432

By: Senators Hamrick of the 30th and Cowser of the 46th

A BILL TO BE ENTITLED
AN ACT

To amend Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to the procedure for sentencing and imposition of punishment, so as to allow the family of a victim to provide certain statements during the sentencing procedures for the person who committed the crime; to amend Article 2 of Chapter 9 of Title 42 of the Official Code of Georgia Annotated, relating to grants of pardons, paroles, and other relief, so as to allow the victim of a crime or the family of the victim of a crime to provide certain testimony during the pardons and paroles process; to provide that the victim of a crime or the family of a victim of a crime is entitled to certain notifications; to provide for certain disclosures to an inmate regarding confidential evidence; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to the procedure for sentencing and imposition of punishment, is amended by revising subsection (a) of Code Section 17-10-1.2, relating to an oral victim impact statement, as follows:

"(a)(1) In all cases in which the death penalty may be imposed, subsequent to an adjudication of guilt and in conjunction with the procedures in Code Section 17-10-30, the court ~~may~~ shall allow evidence from the family of the victim, or such other witness having personal knowledge of the victim's personal characteristics and the emotional impact of the crime on the victim, the victim's family, or the community. Such evidence shall be given in the presence of the defendant and of the jury and shall be subject to cross-examination. The admissibility of such evidence shall be in the sole discretion of the judge and in any event shall be permitted only in such a manner and to such a degree as not to inflame or unduly prejudice the jury.

(2) In all cases other than those in which the death penalty may be imposed, prior to fixing of the sentence as provided for in Code Section 17-10-1 or the imposing of life

imprisonment as mandated by law, and before rendering the appropriate sentence, including any order of restitution, the court, ~~within its discretion, may~~ shall allow evidence from the victim, the family of the victim, or such other witness having personal knowledge of the impact of the crime on the victim, the family of the victim, or community. Such evidence shall be given in the presence of the defendant and shall be subject to cross-examination.

(3) Evidence presented pursuant to this subsection may be in the form of, but not limited to, a written statement, an audiotaped or videotaped statement, or a statement made via speakerphone with an attorney's verification of the speaker's identity. Photographs of the victim may be included with any other evidence presented pursuant to this subsection. Where evidence is presented pursuant to this subsection the authenticating witness shall be subject to cross examination."

SECTION 2.

Article 2 of Chapter 9 of Title 42 of the Official Code of Georgia Annotated, relating to grants of pardons, paroles, and other relief, is amended by revising Code Section 42-9-43, relating to information to be considered by the board, conduct of investigation and examination, and determination as to grant of relief, as follows:

"42-9-43.

(a) The board, in considering any case within its power, shall cause to be brought before it all pertinent information on the person in question. Included therein shall be:

(1) A report by the superintendent, warden, or jailer of the jail or state or county correctional institution in which the person has been confined upon the conduct of record of the person while in such jail or state or county correctional institution;

(2) The results of such physical and mental examinations as may have been made of the person;

(3) The extent to which the person appears to have responded to the efforts made to improve his or her social attitude;

(4) The industrial record of the person while confined, the nature of his or her occupations while so confined, and a recommendation as to the kind of work ~~he~~ the person is best fitted to perform and at which he or she is most likely to succeed when and if ~~he is~~ released; and

(5) The educational programs in which the person has participated and the level of education which the person has attained based on standardized reading tests.

In addition, the victim or the victim's family shall have the right to present written, oral, audiotaped, or videotaped testimony of the crime victim, the family of the crime victim, or a witness having personal knowledge of the victim's personal characteristics. All

1 evidence submitted pursuant to this paragraph not classified as confidential pursuant to the
2 board's rules and regulations shall be disclosed to the inmate. The inmate shall be
3 permitted to rebut the evidence and present evidence on his or her own behalf. The board
4 may also make such other investigation as it may deem necessary in order to be fully
5 informed about the person.

6 (b) Before releasing any person on parole, the board may have the person appear before
7 it and may personally examine him or her. Thereafter, upon consideration, the board shall
8 make its findings and determine whether or not the person shall be granted a pardon,
9 parole, or other relief within the power of the board; and the board shall determine the
10 terms and conditions thereof. Notice of the determination shall be given to the person and
11 to the correctional official having ~~him~~ such person in custody.

12 (c) If a person is granted a pardon or a parole, the correctional officials having the person
13 in custody, upon notification thereof, shall inform him or her of the terms and conditions
14 thereof and shall, in strict accordance therewith, release the person.

15 (d) The board shall send written notification of the parole hearing to the victim or, or when
16 the victim is no longer living, to the family of the victim."

17 SECTION 3.

18 All laws and parts of laws in conflict with this Act are repealed.